

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 08-61818

ELLEN A. BREWSTER, *pro se*,

Chapter 7

Debtor.

Judge Thomas J. Tucker

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ORDER DENYING DEBTOR'S MOTION TO REOPEN BANKRUPTCY CASE

On September 9, 2008, Debtor filed a voluntary petition for relief under Chapter 7, initiating this case. On September 12, 2008, the Court entered an "Order Dismissing Case" (Docket # 11), because Debtor filed a "Certificate of Counseling" (Docket # 5), which indicated that "Debtor did not receive credit counseling *during the 180-day period preceding the date of the filing of her petition*," as is required by 11 U.S.C. § 109(h)(1).¹ On September 19, 2008, this bankruptcy case was closed.

On November 13, 2008, Debtor filed a "Motion to Reinstate Voluntary Petition" (the "Motion," Docket # 16). The Motion seeks to reopen the bankruptcy case so that Debtor may file a new Certificate of Counseling and her Schedules and other documents. On December 3, 2008, Debtor filed a new credit counseling certificate, saying that she obtained the credit counseling briefing on November 24, 2008.

The Court must deny the Motion for the following reasons.

First, Debtor has not paid the \$260.00 filing fee required for the motion to reopen the case.

Second, Debtor is not eligible to be a debtor in this case under 11 U.S.C. § 109(h)(1).

¹ "Debtor received credit counseling 217 days before her petition was filed." ("Order Dismissing Case" (Docket

That section provides in relevant part, that

an individual may not be a debtor under this title unless such individual has, during the 180-day period preceding the date of filing the petition by such individual, received from an approved nonprofit budget and credit counseling agency described in section 111(a) an individual or group briefing (including a briefing conducted by telephone or on the Internet) that outlined the opportunities for available credit counseling and assisted such individual in performing a related budget analysis.

As noted above, the new certificate of credit counseling that Debtor filed with the Court states that Debtor received “an individual [or group] briefing that complied with the provisions of 11 U.S.C. §§ 109(h) and 111” on **November 24, 2008**. (See “Certificate of Counseling,” filed on December 3 2008 (Docket # 20).) Debtor filed her voluntary petition for relief under Chapter 7 on September 9, 2008. Therefore, Debtor only received this credit counseling *after* her petition in this case was filed. With exceptions not applicable here, 11 U.S.C. § 109(h)(1) requires a debtor to obtain credit counseling during the 180-day period *before* filing a bankruptcy petition.

Third, On March 26, 2009, Debtor filed another voluntary petition for relief under Chapter 7, initiating Case No. 09-49163. The new pending Chapter 7 case makes the Motion filed in Case No. 08-61818 moot.

For these reasons,

IT IS ORDERED that Debtor’s “Motion to Reinstate Voluntary Petition” (Docket # 16), is DENIED.

Signed on April 02, 2009

/s/ Thomas J. Tucker
Thomas J. Tucker
United States Bankruptcy Judge